THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 30th June, 2006

W.P.No.27594 of 1997

Between:

Major P.T. Chowhdary … Petitioner

and

Deputy Registrar of Cooperative Societies (Housing), Hyderabad and another … Respondents

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W.P.No.27594 of 1997

ORAL ORDER:

It seems, the petitioner is issued with a distraint notice dated 31-12-2004 by the 1st respondent, which is served on the petitioner on 26-6-1997. The same is under challenge in this Writ Petition.

Petitioner complains that the 1st respondent issued a show cause notice dated 17-7-1981 under Section 60 of A.P. Cooperative Societies Act,1964 (for short 'the Act') alleging that they had resorted to mismanagement of the affairs of the 2nd respondent-society and proposed to surcharge them for a total sum of Rs.7,90,110-75 ps. He submitted an explanation to the said show cause notice on 31-7-1981 in which he categorically denied the allegations and stated that the proposed action is not based on facts. Thereafter, he has not received any final order from the 1st respondent and all through he has been under the impression that the explanation submitted by him was accepted and the proceedings were dropped. Only after service of the impugned Order, he came to know that the surcharge proceedings are still being pursued. Till date, he has not served with final orders passed by the 1st respondent, if any, subsequent to his explanation to the show cause notice dated 17-7-1981.

Admittedly, the explanation was offered by the petitioner for the show cause notice dated 17-7-1981 and as per the counter affidavit

filed by the 1st respondent, the petitioner submitted his explanation to the show cause notice on 11-5-1982 and the other members did not submit any explanation and the present distraint notice is issued on 31-12-1994, which was served on the petitioner on 26-6-1997. At paragraph-5 of the writ affidavit, the petitioner has categorically asserted that he is not aware of any surcharge final orders passed against him nor any final proceedings were served on him and suddenly after 12 years, he has received the present distraint notice. In the counter, nowhere it is asserted that the final order of surcharge passed under Section 60(1) of the Act was served on the petitioner.

In view of the above, without expressing any opinion on merits of the case, the respondents are directed to furnish a copy of the final proceedings under Section 60(1) of the Act, within a period of one month from the date of receipt of a copy of this order. On furnishing such order, the petitioner is at liberty to take appropriate steps as per law and the respondents are at liberty to proceed with the matter. Thereafter, after putting the petitioner on notice, recover the amounts as per law.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

30-6-2006

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